

**Introduced by Senator Escutia**

December 2, 2002

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An act to amend Sections 42239 and 42239.1 of, to add Sections 37252.5 and 37252.6 to, and to repeal Sections 37252.2 and 37252.8 of, the Education Code, relating to public schools.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 19, as introduced, Escutia. Supplemental instruction.

(1) Existing law requires a school district to offer supplemental instruction to pupils in grades 2 to 9, inclusive, who are recommended for retention or who are retained in the same grade.

This bill would additionally authorize a school district to offer supplemental instruction to pupils in grades 2 to 6, inclusive, who are at risk of retention.

(2) Existing law requires a school district to offer supplemental instruction to pupils in grades 2 to 6, inclusive, who are either deficient in mathematics, reading, or written expression based on the results of statewide achievement tests or at risk of retention in the same grade. Existing law limits the amount of funding a school district may receive for this instruction.

This bill would remove the authorization to provide supplemental educational services to a pupil based solely on his or her being at risk of retention in the same grade. The bill would revise the funding limitation for supplemental instruction and would make conforming changes in related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



*The people of the State of California do enact as follows:*

SECTION 1. Section 37252.2 of the Education Code is repealed.

~~37252.2. (a) The governing board of each school district maintaining any or all of grades 2 to 9, inclusive, shall offer, and a charter school may offer, programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 9, inclusive, who have been recommended for retention or who have been retained pursuant to Section 48070.5. A school district or charter school may require a pupil who has been retained to participate in supplemental instructional programs. Notwithstanding the requirements of this section, the school district or charter school shall provide a mechanism for a parent or guardian to decline to enroll his or her child in the program. Attendance in supplemental instructional programs shall not be compulsory within the meaning of Section 48200.~~

~~(b) Supplemental educational services pursuant to subdivision (a) may be offered during the summer, before school, after school, on Saturdays, or during intersession, or in a combination of summer school, before school, after school, Saturday, or intersession instruction. Services shall not be provided during the pupil's regular instructional day. Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday, over a pupil who is not unable to attend a Saturday school program for religious reasons.~~

~~(c) For purposes of this section, a pupil shall be considered to be enrolled in a grade immediately upon completion of the preceding grade. Summer school instruction may also be offered to pupils who were enrolled in grade 6 during the prior school year. For ninth grade pupils identified in subdivision (a), summer school instruction may also be offered to pupils who were enrolled in grade 9 during the prior school year.~~

~~(d) Each school district or charter school shall use results from tests administered under the Standardized Testing and Reporting Program, established pursuant to Article 4 (commencing with~~

1 ~~Section 60640) of Chapter 5 of Part 33 or other evaluative criteria~~  
2 ~~to identify eligible pupils pursuant to subdivision (b).~~

3 ~~(c) An intensive remedial program in reading or written~~  
4 ~~expression offered pursuant to this section shall, as needed,~~  
5 ~~include instruction in phoneme awareness, systematic explicit~~  
6 ~~phonics and decoding, word attack skills, spelling and vocabulary,~~  
7 ~~explicit instruction of reading comprehension, writing, and study~~  
8 ~~skills.~~

9 ~~(f) Each school district or charter school shall seek the active~~  
10 ~~involvement of parents and classroom teachers in the development~~  
11 ~~and implementation of supplemental instructional programs~~  
12 ~~provided pursuant to this section.~~

13 ~~(g) It is the intent of the Legislature that pupils who are at risk~~  
14 ~~of failing to meet state adopted standards, or who are at risk of~~  
15 ~~retention, be identified as early in the school year and as early in~~  
16 ~~their school careers as possible, and be provided the opportunity~~  
17 ~~for supplemental instruction sufficient to assist them in attaining~~  
18 ~~expected levels of academic achievement.~~

19 ~~(h) Notwithstanding any other provision of law, neither the~~  
20 ~~State Board of Education nor the Superintendent of Public~~  
21 ~~Instruction may waive any provision of this section.~~

22 ~~(i) This section shall become operative on January 1, 2003.~~

23 SEC. 2. Section 37252.5 is added to the Education Code, to  
24 read:

25 37252.5. (a) The governing board of each district  
26 maintaining any or all of grades 2 to 9, inclusive, shall offer, and  
27 a charter school may offer, programs of direct, systematic, and  
28 intensive supplemental instruction to pupils enrolled in grades 2  
29 to 9, inclusive, who are recommended for retention or who are  
30 retained pursuant to Section 48070.5. A school district or charter  
31 school may require a pupil who is retained to participate in  
32 supplemental instructional programs. Notwithstanding the  
33 requirements of this section, the school district or charter school  
34 shall provide a mechanism for a parent or guardian to decline to  
35 enroll his or her child in the program. Attendance in supplemental  
36 instructional programs is not compulsory within the meaning of  
37 Section 48200.

38 (b) The governing board of each district maintaining any or all  
39 of grades 2 to 6, inclusive, and each charter school, may offer  
40 direct, systematic, and intensive supplemental instruction to pupils

1 enrolled in any of grades 2 to 6, inclusive, who are identified as  
2 being at risk of retention pursuant to Section 48070.5.

3 (c) Supplemental educational services pursuant to subdivisions  
4 (a) and (b) may be offered during the summer, before school, after  
5 school, on Saturdays, or during intersession, or in a combination  
6 of summer school, before school, after school, on Saturday, or  
7 intersession instruction. Services may not be provided during the  
8 pupil's regular instructional day. Any minor pupil whose parent or  
9 guardian informs the school district that the pupil is unable to  
10 attend a Saturday school program for religious reasons, or any  
11 pupil 18 years of age or older who states that he or she is unable  
12 to attend a Saturday school program for religious reasons, shall be  
13 given priority for enrollment in supplemental instruction offered  
14 at a time other than Saturday over a pupil who is not unable to  
15 attend a Saturday school program for religious reasons.

16 (d) For purposes of this section, a pupil shall be considered to  
17 be enrolled in a grade immediately upon completion of the  
18 preceding grade. Summer school instruction may also be offered  
19 to otherwise eligible pupils who were enrolled in grade 6 or 9  
20 during the prior school year.

21 (e) Each school district or charter school shall use results from  
22 tests administered under the Standardized Testing and Reporting  
23 Program, established pursuant to Article 4 (commencing with  
24 Section 60640) of Chapter 5 of Part 33 or other evaluative criteria  
25 to identify eligible pupils pursuant to subdivision (b).

26 (f) An intensive remedial program in reading or written  
27 expression offered pursuant to this section shall, as needed,  
28 include instruction in phoneme awareness, systematic explicit  
29 phonics and decoding, word attack skills, spelling and vocabulary,  
30 explicit instruction in reading comprehension, writing, and study  
31 skills.

32 (g) Each school district or charter school shall seek the active  
33 involvement of parents, guardians, and classroom teachers in the  
34 development and implementation of supplemental instructional  
35 programs provided pursuant to this section.

36 (h) It is the intent of the Legislature that pupils who are at risk  
37 of failing to meet state adopted standards, or who are at risk of  
38 retention, be identified as early in the school year and as early in  
39 their school careers as possible, and be provided the opportunity



1 for supplemental instruction sufficient to assist them in attaining  
2 expected levels of academic achievement.

3 (i) Notwithstanding any other provision of law, neither the  
4 State Board of Education nor the Superintendent of Public  
5 Instruction may waive any provision of this section.

6 SEC. 3. Section 37252.6 is added to the Education Code, to  
7 read:

8 37252.6. (a) The governing board of each school district  
9 maintaining any or all of grades 2 to 6, inclusive, and any charter  
10 school may offer programs of direct, systematic, and intensive  
11 supplemental instruction to pupils enrolled in grades 2 to 6,  
12 inclusive, who are identified as having a deficiency in  
13 mathematics, reading, or written expression based on the results  
14 of any test administered under the Standardized Testing and  
15 Reporting Program established pursuant to Article 4  
16 (commencing with Section 60640) of Chapter 5 of Part 33.

17 (b) Supplemental educational services offered pursuant to this  
18 section may be offered during the summer, before school, after  
19 school, on Saturdays, or during intersession, or in a combination  
20 of summer school, before school, after school, on Saturday, or  
21 intersession instruction. Services may not be provided during the  
22 pupil's regular instructional day. Any minor pupil whose parent or  
23 guardian informs the school district that the pupil is unable to  
24 attend a Saturday school program for religious reasons, or any  
25 pupil 18 years of age or older who states that he or she is unable  
26 to attend a Saturday school program for religious reasons, shall be  
27 given priority for enrollment in supplemental instruction offered  
28 at a time other than Saturday, over a pupil who is not unable to  
29 attend a Saturday school program for religious reasons.

30 (c) For purposes of this section, a pupil shall be considered to  
31 be enrolled in a grade immediately upon completion of the  
32 preceding grade. Summer school instruction may also be offered  
33 to pupils who were enrolled in grade 6 during the prior school year.

34 (d) An intensive remedial program in reading or written  
35 expression offered pursuant to this section shall, as needed,  
36 include instruction in phoneme awareness, systematic explicit  
37 phonics and decoding, word attack skills, spelling and vocabulary,  
38 explicit instruction in reading comprehension, writing, and study  
39 skills.

(e) Each school district or charter school shall seek the active involvement of parents, guardians, and classroom teachers in the development and implementation of supplemental instructional programs provided pursuant to this section.

(f) It is the intent of the Legislature that pupils who are at risk of failing to meet state adopted standards, or who are at risk of retention, be identified as early in the school year and as early in their school careers as possible, and be provided the opportunity for supplemental instruction sufficient to assist them in attaining expected levels of academic achievement.

(g) (1) The maximum amount of funding for the purposes of programs offered pursuant to this section to serve pupils in grades 2 to 6, inclusive, may not exceed 5 percent of the statewide total enrollment in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year as determined pursuant to subdivision (c) of Section 42239.

(2) A school district or charter school that offers instruction pursuant to this section is entitled to receive reimbursement in an amount up to 5 percent of the district's or charter school's total enrollment in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year as determined pursuant to subdivision (c) of Section 42239.

(h) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

SEC. 4. Section 37252.8 of the Education Code is repealed.

~~37252.8. (a) The governing board of each district maintaining any or all of grades 2 to 6, inclusive, and any charter school, may offer programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 6, inclusive, who meet either of the following criteria:~~

~~(1) Pupils who have been identified as having a deficiency in mathematics, reading, or written expression based on the results of the tests administered under the Standardized Testing and Reporting Program established pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.~~

~~(2) Pupils who have been identified as being at risk of retention pursuant to Section 48070.5.~~

~~(b) Supplemental educational services offered pursuant to this section may be offered during the summer, before school, after school, on Saturdays, or during intersession, or in a combination of summer school, before school, after school, Saturday, or intersession instruction. Services shall not be provided during the pupil's regular instructional day. Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday, over a pupil who is not unable to attend a Saturday school program for religious reasons.~~

~~(c) For purposes of this section, a pupil shall be considered to be enrolled in a grade immediately upon completion of the preceding grade. Summer school instruction may also be offered to pupils who were enrolled in grade 6 during the prior school year.~~

~~(d) An intensive remedial program in reading or written expression offered pursuant to this section shall, as needed, include instruction in phoneme awareness, systematic explicit phonics and decoding, word attack skills, spelling and vocabulary, explicit instruction of reading comprehension, writing, and study skills.~~

~~(e) Each school district or charter school shall seek the active involvement of parents and classroom teachers in the development and implementation of supplemental instructional programs provided pursuant to this section.~~

~~(f) It is the intent of the Legislature that pupils who are at risk of failing to meet state adopted standards, or who are at risk of retention, be identified as early in the school year, and as early in their school careers as possible and be provided the opportunity for supplemental instruction sufficient to assist them in attaining expected levels of academic achievement.~~

~~(g) (1) A school district or charter school that offers instruction pursuant to this section shall be entitled to receive reimbursement in an amount up to 5 percent of the district's or charter school's total enrollment in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year determined pursuant to subdivision (e) of Section 42239.~~



~~(2) The balance of the appropriation made for the purposes of funding programs offered pursuant to this section to serve pupils in grades 2 to 6, inclusive, shall be allocated for reimbursement of pupil attendance in instruction pursuant to subdivision (a) that is in excess of five percent, but not in excess of seven percent, of the district's enrollment for the prior year in grades 2 to 6, inclusive, multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year determined pursuant to subdivision (c) of Section 42239.~~

~~(h) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.~~

~~(i) This section shall become effective January 1, 2003.~~

SEC. 5. Section 42239 of the Education Code is amended to read:

42239. For the 2000–01 fiscal year, and each fiscal year thereafter, the Superintendent of Public Instruction shall compute funding for supplemental instruction for each school district or charter school in the following manner:

(a) Multiply the number of pupil hours of supplemental instruction claimed pursuant to Sections 37252, ~~37252.2~~, and 37252.5 by the pupil hour allowance specified in subdivision (c) or by a pupil hour allowance specified in the annual Budget Act ~~in lieu~~ *instead* of the amount computed in subdivision (c).

(b) Multiply the number of pupil hours of supplemental instruction claimed pursuant to Sections 37252.6, ~~37252.8~~, and 37253 by the pupil hour allowance specified in subdivision (c) or by a per-pupil hour allowance specified in the annual Budget Act ~~in lieu~~ *instead* of the amount computed in subdivision (c). The total number of pupil hours of supplemental instruction that may be claimed pursuant to Section 37253 may not exceed the limits on pupil hours that may be claimed as established by subdivisions (c) and (d) of Section 37253. The total number of pupil hours of supplemental instruction that may be claimed pursuant to Section 37252.6 may not exceed the limits on pupil hours that may be claimed as established in subdivision (g) of that section.

(c) Commencing with the 2000–01 fiscal year, hours of supplemental instruction shall be reimbursed at a rate of three dollars and ~~25~~ *twenty-five* cents (\$3.25) per pupil hour, adjusted in future years as specified in this section, provided that a different



1 reimbursement rate may be specified for each fiscal year in the  
2 annual Budget Act that appropriates funding for that fiscal year.  
3 This amount shall be increased annually by the percentage  
4 increase pursuant to subdivision (b) of Section 42238.1 granted to  
5 school districts or charter schools for base revenue limit  
6 cost-of-living increases.

7 (d) (1) If appropriated funding is insufficient to pay all claims  
8 made in any fiscal year pursuant to Section 37252, ~~37252.2~~, or  
9 37252.5, the superintendent shall use any available funding  
10 appropriated for the purposes of reimbursing school districts  
11 pursuant to Section 37252, ~~37252.2~~, or 37252.5, or subdivision (d)  
12 of Section 37253.

13 (2) If appropriated funding is still insufficient to pay all claims  
14 made in any fiscal year pursuant to Section 37252, ~~37252.2~~, or  
15 37252.5, the superintendent shall use any available funding  
16 appropriated for the purposes of reimbursing school districts for  
17 supplemental instruction in the prior fiscal year.

18 (3) If appropriated funding is still insufficient to pay all claims  
19 made in any fiscal year pursuant to Section 37252, ~~37252.2~~, or  
20 37252.5, the superintendent shall use any available funding  
21 appropriated for the purposes of reimbursing school districts for  
22 supplemental instruction in the current fiscal year.

23 (4) The superintendent shall notify the Director of Finance that  
24 there is a deficiency of funding appropriated for the purposes of  
25 Sections 37252, ~~37252.2~~, and 37252.5 only after the  
26 superintendent has exhausted all available balances of  
27 appropriations made for the current or prior fiscal years for the  
28 reimbursement of school districts for supplemental instruction.

29 (e) Notwithstanding any other provision of law, neither the  
30 State Board of Education nor the Superintendent of Public  
31 Instruction may waive any provision of this section.

32 SEC. 6. Section 42239.1 of the Education Code is amended  
33 to read:

34 42239.1. (a) For the 1999–2000 fiscal year and each fiscal  
35 year thereafter, each school district shall be eligible for  
36 reimbursement for hours of pupil attendance claimed for intensive  
37 reading programs offered pursuant to Article 1 (commencing with  
38 Section 53025) of Chapter 16 of Part 28 of the Education Code in  
39 an amount up to 10 percent of the district’s total enrollment in  
40 kindergarten and grades 1 to 4, inclusive, for the prior fiscal year

1 multiplied by 120 hours, multiplied by the hourly rate for the  
2 current fiscal year determined pursuant to subdivision (c) of  
3 Section 42239. This amount shall be provided in addition to  
4 amounts claimed pursuant to Sections 37252, ~~37252.2~~, 37252.5,  
5 35252.6, ~~37252.8~~, and 37253.

6 (b) When expending funds received pursuant to this section a  
7 school district shall give first priority for the purpose specified in  
8 paragraph (1) of subdivision (c) of Section 53027.

